

[WORKING GROUP DISCUSSION DRAFT]

MARCH 23, 1998

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Credit Union Member-
3 ship Access Act”.

4 SEC. 2. FINDINGS.

5 The Congress finds the following:

6 (1) The American credit union movement began
7 as a cooperative effort to serve the productive and
8 provident credit needs of individuals of modest
9 means.

10 (2) Credit unions continue to fulfill this public
11 purpose, and current members and membership
12 groups should not face divestiture from the financial
13 services institution of their choice as a result of re-
14 cent court action.

15 (3) To promote thrift and credit extension, a
16 meaningful affinity and bond among members,
17 manifested by a commonality of routine interaction,
18 shared and related work experiences, interests, or
19 activities, or the maintenance of an otherwise well-
20 understood sense of cohesion or identity is essential
21 to the fulfillment of credit unions’ public mission.

1 (4) Credit unions, unlike many other partici-
2 pants in the financial services market, are exempt
3 from Federal and most State taxes because they are
4 member-owned, democratically operated, not-for-
5 profit organizations generally managed by volunteer
6 boards of directors and because they have the speci-
7 fied mission of meeting the credit and savings needs
8 of consumers, especially persons of modest means.

9 (5) Improved credit union safety and soundness
10 provisions will enhance the public benefit that citi-
11 zens receive from these cooperative financial services
12 institutions.

13 **TITLE I—CREDIT UNION** 14 **MEMBERSHIP**

15 **SEC. 101. FIELDS OF MEMBERSHIP.**

16 Section 109 of the Federal Credit Union Act (12
17 U.S.C. 1759) is amended—

18 (1) in the 1st sentence—

19 (A) by striking “Federal credit union
20 membership shall consist of” and inserting “(a)
21 IN GENERAL.—Subject to subsection (b), Fed-
22 eral credit union membership shall consist of”;
23 and

1 (B) by striking “, except that” and all that
2 follows through the period at the end of such
3 sentence and inserting a period; and

4 (2) by adding at the end the following new sub-
5 sections:

6 “(b) MEMBERSHIP FIELD.—Subject to the other pro-
7 visions of this section, the membership of any Federal
8 credit union shall be limited to the membership described
9 in 1 of the following categories:

10 “(1) SINGLE COMMON-BOND CREDIT UNION.—
11 1 group which has a common bond of occupation or
12 association.

13 “(2) MULTIPLE COMMON-BOND CREDIT
14 UNION.—More than 1 group—

15 “(A) each of which has (within such
16 group) a common bond of occupation or asso-
17 ciation; and

18 “(B) the number of members of each of
19 which (at the time the group is first included
20 within the field of membership of a credit union
21 described in this paragraph) does not exceed
22 any numerical limitation applicable under sub-
23 section (d).

1 “(3) COMMUNITY CREDIT UNION.—Persons or
2 organizations within a well-defined local community,
3 neighborhood, or rural district.

4 “(c) GRANDFATHERED MEMBERS AND GROUPS.—

5 “(1) IN GENERAL.—Notwithstanding subsection
6 (b)—

7 “(A) any person or organization who is a
8 member of any Federal credit union as of the
9 date of the enactment of the Credit Union
10 Membership Access Act may remain a member
11 of such credit union after such date; and

12 “(B) a member of any group whose mem-
13 bers constituted a portion of the membership of
14 any Federal credit union as of such date of en-
15 actment shall continue to be eligible to become
16 a member of such credit union, by virtue of
17 membership in such group, after such date.

18 “(2) SUCCESSORS.—If the common bond of any
19 group referred to in paragraph (1) is defined by any
20 particular organization or business entity, paragraph
21 (1) shall continue to apply with respect to any suc-
22 cessor to such organization or entity.

23 “(d) MULTIPLE COMMON-BOND CREDIT UNION
24 GROUP REQUIREMENTS.—

1 “(1) NUMERICAL LIMITATION.—Except as pro-
2 vided in paragraph (2), only a group with fewer than
3 3,000 members shall be eligible to be included in the
4 field of membership of a credit union described in
5 subsection (b)(2).

6 “(2) EXCEPTIONS.—In the case of any Federal
7 credit union whose field of membership is deter-
8 mined under subsection (b)(2), the numerical limita-
9 tion described in paragraph (1) shall not apply with
10 respect to the following:

11 “(A) CERTAIN LARGER GROUPS INCAPA-
12 BLE OF SUPPORTING AND OPERATING A SIN-
13 GLE-GROUP CREDIT UNION.—Any group which
14 the Board determines, in writing and in accord-
15 ance with the guidelines and regulations de-
16 scribed in paragraph (4), could not feasibly or
17 reasonably establish a new single common-bond
18 credit union described in subsection (b)(1) be-
19 cause—

20 “(i) the group lacks sufficient nonvol-
21 unteer resources to support the efficient
22 and effective operation of a credit union;

23 “(ii) the group does not meet the cri-
24 teria which the Board has determined to
25 be important for the likelihood of success

1 in establishing and managing a new credit
2 union, including demographic characteris-
3 tics, such as geographical location of mem-
4 bers, diversity of ages, and income levels,
5 and other financial factors which may af-
6 fect the financial viability and stability of
7 a credit union; or

8 “(iii) the group would be unlikely to
9 operate a safe and sound credit union.

10 “(B) TRANSACTIONS FOR SUPERVISORY
11 REASONS.—Any group transferred from another
12 credit union—

13 “(i) in connection with a merger or
14 consolidation which has been recommended
15 by the Board or any appropriate State
16 credit union supervisor for safety and
17 soundness concerns with respect to such
18 other credit union; or

19 “(ii) by the Board in the Board’s ca-
20 pacity as conservator or liquidating agent
21 with respect to such other credit union.

22 “(3) EXCEPTION FOR UNDERSERVED AREAS.—
23 Notwithstanding subsection (b), in the case of a
24 Federal credit union described in paragraph (2) of
25 such subsection, the Board may allow the member-

1 ship of the credit union to include any person or or-
2 ganization within a local community, neighborhood,
3 or rural district if—

4 “(A) the Board determines that such local
5 community, neighborhood, or rural district—

6 “(i) meets the requirements of para-
7 graph (3) and subparagraphs (A) and (B)
8 of paragraph (4) of section 233(b) of the
9 Bank Enterprise Act of 1991, and such
10 additional requirements as the Board may
11 impose; and

12 “(ii) is underserved, based on data of
13 the Board and the Federal banking agen-
14 cies (as defined in section 3 of the Federal
15 Deposit Insurance Act), by other deposi-
16 tory institutions (as defined in section
17 19(b)(1)(A) of the Federal Reserve Act);
18 and

19 “(B) the credit union establishes and
20 maintains an office or facility in such local com-
21 munity, neighborhood, or rural district at which
22 credit union services are available.

23 “(4) REGULATIONS AND GUIDELINES.—The
24 Board shall issue guidelines or regulations, after no-
25 tice and opportunity for comment, setting forth the

1 criteria the Board will apply in determining whether
2 or not an additional group may be included within
3 the field of membership of an existing credit union
4 pursuant to paragraph (2).

5 “(e) ADDITIONAL MEMBERSHIP ELIGIBILITY PROVI-
6 SIONS.—

7 (1) MEMBERSHIP ELIGIBILITY LIMITED TO IM-
8 MEDIATE FAMILY OR HOUSEHOLD MEMBERS.—No
9 individual shall be eligible for membership in a cred-
10 it union on the basis of the relationship of such indi-
11 vidual to another person who is eligible for member-
12 ship in such credit union unless the individual is a
13 member of the immediate family or household (as
14 such terms are defined by the Board by regulation)
15 of such other person.

16 “(2) RETENTION OF MEMBERSHIP.—Except as
17 provided in section 118, once a person becomes a
18 member of a credit union in accordance with this
19 title, such person or organization may remain a
20 member of such credit union until the person or or-
21 ganization chooses to withdraw from the member-
22 ship of the credit union.”.

1 **SEC. 102. CRITERIA FOR APPROVAL OF EXPANSION OF**
2 **MEMBERSHIP OF MULTIPLE COMMON-BOND**
3 **CREDIT UNIONS.**

4 Section 109 of the Federal Credit Union Act (12
5 U.S.C. 1759) is amended by inserting after subsection (e)
6 (as added by section 101 of this title) the following new
7 subsection:

8 “(f) CRITERIA FOR APPROVAL OF EXPANSION OF
9 MULTIPLE COMMON-BOND CREDIT UNIONS.—

10 “(1) POLICY GUIDELINES.—The Board shall—

11 “(A) encourage the formation of separately
12 chartered credit unions instead of approving an
13 application to include an additional group with-
14 in the field of membership of an existing credit
15 union whenever practicable and consistent with
16 reasonable standards for the safe and sound op-
17 eration of the credit union; and

18 “(B) if the formation of a separate credit
19 union by such group is not practicable or con-
20 sistent with such standards, encourage the in-
21 clusion of such group in the field of member-
22 ship of a credit union which is within reason-
23 able proximity to the location of the group
24 whenever practicable and consistent with rea-
25 sonable standards for the safe and sound oper-
26 ation of the credit union.

1 “(2) SPECIFIC CRITERIA.—The Board may not
2 approve any application by a Federal credit union
3 described in subsection (b)(2) to include any addi-
4 tional group within the field of membership of such
5 credit union (or an application by a Federal credit
6 union described in paragraph (1) to include an addi-
7 tional group and become a credit union described in
8 paragraph (2)) unless the Board determines, in writ-
9 ing, that—

10 “(A) such credit union has not engaged in
11 any unsafe or unsound practice (as defined in
12 section 206(b)) which is material during the 1-
13 year period preceding the filing of the applica-
14 tion;

15 “(B) the credit union is adequately capital-
16 ized;

17 “(C) the credit union has the administra-
18 tive capability to serve the proposed member-
19 ship group and the financial resources to meet
20 the need for additional employees and assets to
21 serve the new membership group;

22 “(D) pursuant to the most recent evalua-
23 tion of such credit union under section 215, the
24 credit union is satisfactorily providing afford-
25 able credit union services to all individuals of

1 modest means within the field of membership of
2 such credit union;

3 “(E) any potential harm the expansion of
4 the field of membership of the credit union may
5 have on any other insured credit union and its
6 members is clearly outweighed in the public in-
7 terest by the probable beneficial effect of the
8 expansion in meeting the convenience and needs
9 of the members of the group proposed to be in-
10 cluded in the field of membership; and

11 “(F) the credit union has met any addi-
12 tional requirements as the Board may prescribe
13 in regulations.”.

14 **SEC. 103. GEOGRAPHICAL GUIDELINES FOR COMMUNITY**
15 **CREDIT UNIONS.**

16 Section 109 of the Federal Credit Union Act (12
17 U.S.C. 1759) is amended by inserting after subsection (f)
18 (as added by section 102 of this title) the following new
19 subsection:

20 “(g) REGULATIONS REQUIRED FOR COMMUNITY
21 CREDIT UNIONS.—

22 “(1) DEFINITION OF WELL-DEFINED LOCAL
23 COMMUNITY, NEIGHBORHOOD, OR RURAL DIS-
24 TRICT.—The Board shall prescribe regulations defin-

1 ing the term ‘well-defined local community, neigh-
2 borhood, or rural district’ for purposes of—

3 “(A) making any determination with re-
4 gard to the field of membership or operational
5 service area of a credit union described in sub-
6 section (b)(3); and

7 “(B) establishing the criteria applicable
8 with respect to any such determination.

9 “(2) SCOPE OF APPLICATION.—Paragraph (1)
10 shall apply with respect to any application to form
11 a new credit union, or to alter or expand the field
12 of membership of an existing credit union, which is
13 filed with the Board after the date of the enactment
14 of Credit Union Membership Access Act.”.

15 **TITLE II—REGULATION OF** 16 **CREDIT UNIONS**

17 **SEC. 201. FINANCIAL STATEMENT AND AUDIT REQUIRE-** 18 **MENTS.**

19 (a) IN GENERAL.—Section 202(a)(6) of the Federal
20 Credit Union Act (12 U.S.C. 1782(a)(6)) is amended by
21 adding at the end the following new subparagraphs:

22 “(C) FINANCIAL STATEMENT.—Each in-
23 sured credit union shall prepare annual finan-
24 cial statements in conformity with generally
25 accepted accounting principles or such other

1 similar principles as are prescribed by the
2 Board or an appropriate State credit union su-
3 pervisor.

4 “(D) LARGE CREDIT UNION AUDIT RE-
5 QUIREMENT.—Each insured credit union which
6 has total assets of \$500,000,000 or more shall
7 have an annual independent audit of the finan-
8 cial statement of the credit union performed in
9 accordance with generally accepted auditing
10 standards by an independent certified public ac-
11 countant or public accountant licensed by the
12 appropriate State or jurisdiction to perform
13 such services.”.

14 (b) TECHNICAL AND CONFORMING AMENDMENT.—
15 Section 202(a)(6)(B) of the Federal Credit Union Act (12
16 1786(b)(6)(B)) is amended by striking “subparagraph
17 (A)” and inserting “subparagraph (A) or (D)”.

18 **SEC. 202. CONVERSIONS OF CREDIT UNIONS INTO OTHER**
19 **DEPOSITORY INSTITUTIONS.**

20 (a) REVIEW OF REGULATIONS REQUIRED.—The Na-
21 tional Credit Union Administration Board shall conduct
22 a detailed review of all regulations which govern or affect
23 the conversion of a credit union into any other form of
24 depository institution, including regulations relating to the
25 form of disclosure required preceding a vote by the mem-

1 bers of a credit union with regard to any such conversion
2 and the manner in which such vote shall be conducted,
3 to ensure that such regulations freely and fairly permit
4 any such conversion after free, fair, and objective disclo-
5 sure to the members of the credit union of the facts and
6 issues involved in any such conversion.

7 (b) REPORT TO THE CONGRESS.—

8 (1) IN GENERAL.—Before the end of the 12-
9 month period beginning on the date of the enact-
10 ment of this Act, the National Credit Union Admin-
11 istration Board shall submit a detailed report on the
12 findings and conclusions of the Board in connection
13 with the review required under subsection (a).

14 (2) CONTENTS OF REPORT.—The report sub-
15 mitted pursuant to paragraph (1) shall contain—

16 (A) any recommendation for any adminis-
17 trative or legislative change which the Board
18 may determine to be appropriate with regard to
19 any aspect of the conversion of a credit union
20 into another form of depository institution; and

21 (B) the justification for any recommenda-
22 tion of the Board—

23 (i) to retain in effect any provision of
24 the regulations in effect on March 13,
25 1998, which govern or affect the conver-

1 sion of a credit union into any other form
2 of depository institution; or
3 (ii) to amend or alter any such provi-
4 sion.

5 (c) DEFINITIONS.—For purposes of this section, the
6 following definitions shall apply:

7 (1) CREDIT UNION.—The term “credit union”
8 means any Federal credit union or State credit
9 union (as such terms are defined in paragraphs (1)
10 and (6), respectively, of section 101 of the Federal
11 Credit Union Act).

12 (2) DEPOSITORY INSTITUTION.—The term “de-
13 pository institution” has the meaning given such
14 term in section 3 of the Federal Deposit Insurance
15 Act.

16 **SEC. 203. REGULATIONS RELATING TO COMMERCIAL**
17 **LOANS AND CERTAIN APPRAISAL REQUIRE-**
18 **MENTS RELATING TO SUCH LOANS.**

19 (a) IN GENERAL.—Subject to subsection (b), the reg-
20 ulations of the National Credit Union Administration
21 Board which are codified in parts 701.21(h) and 722.3(a)
22 of the Code of Federal Regulations, as in effect on March
23 13, 1998 (relating to business loans and lines of credit
24 to members and appraisal requirements with respect to
25 such loans), including any other regulations which are ap-

1 plicable with respect to loans or lines of credit to which
2 such parts apply, are hereby enacted into law.

3 (b) INDEXING.—After December 31, 1998, the Na-
4 tional Credit Union Administration Board shall annually
5 adjust any dollar amount contained in any regulation re-
6 ferred to in subsection (a) by the annual percentage in-
7 crease in the Consumer Price Index for Urban Wage
8 Earners and Clerical Workers published by the Bureau of
9 Labor Statistics.

10 (c) INEFFECTIVENESS OF INCONSISTENT PROVI-
11 SIONS.—Notwithstanding any other provision of law, part
12 723 of the Code of Federal Regulations, as proposed by
13 National Credit Union Administration in the Board Action
14 Memorandum dated March 4, 1998, the amendments to
15 parts 701.21(h) and 722.3(a) of such Code, as proposed
16 by the National Credit Union Administration in such
17 Board Action Memorandum, and any other order, regula-
18 tion, guideline, or interpretation of the National Credit
19 Union Administration Board or such Administration
20 which is in any way inconsistent with the regulations en-
21 acted into law under subsection (a) shall have no force
22 or effect in law after the date of the enactment of this
23 Act.

1 **SEC. 204. SERVING PERSONS OF MODEST MEANS WITHIN**
2 **THE FIELD OF MEMBERSHIP OF CREDIT**
3 **UNIONS.**

4 Title II of the Federal Credit Union Act (12 U.S.C.
5 1781 et seq.) is amended by adding at the end the follow-
6 ing new section:

7 **“SEC. 215. SERVING PERSONS OF MODEST MEANS WITHIN**
8 **THE FIELD OF MEMBERSHIP OF CREDIT**
9 **UNIONS.**

10 “(a) CONTINUING AND AFFIRMATIVE OBLIGATION.—
11 The purpose of this section is to reaffirm that insured
12 credit unions have a continuing and affirmative obligation
13 to meet the financial services needs of persons of modest
14 means consistent with safe and sound operation.

15 “(b) EVALUATION BY THE BOARD.—The Board
16 shall—

17 “(1) prescribe criteria for periodically reviewing
18 the record of each insured credit union in providing
19 affordable credit union services to all individuals of
20 modest means within the field of membership of
21 such credit union; and

22 “(2) provide for making the results of such re-
23 view publicly available.

24 “(c) CRITERIA FOR COMMUNITY CREDIT UNIONS RE-
25 QUIRED.—The Board shall, by regulation—

1 “(1) prescribe criteria for annually evaluating
2 the record of any insured credit union which is orga-
3 nized to serve a well-defined local community, neigh-
4 borhood, or rural district (as described in section
5 109(b)(3)) in meeting the credit needs and credit
6 union service needs of the entire field of membership
7 of such credit union; and

8 “(2) prescribe procedures for remedying the
9 failure of any insured credit union described in para-
10 graph (1) to meet the criteria established pursuant
11 to such paragraph, including the disapproval of any
12 application by such credit union to expand the field
13 of membership of such credit union.

14 “(d) EMPHASIS ON PERFORMANCE, NOT PAPER-
15 WORK.—In evaluating any insured credit union under this
16 section, the Board shall—

17 “(1) focus on the actual performance of the in-
18 sured credit union; and

19 “(2) not impose burdensome paperwork or rec-
20 ordkeeping requirements.”.

21 **SEC. 205. NATIONAL CREDIT UNION ADMINISTRATION**
22 **BOARD MEMBERSHIP.**

23 Section 102(b) of the Federal Credit Union Act (12
24 1752a(b)) is amended—

1 (1) by striking “(b) The Board” and inserting
2 “(b) MEMBERSHIP AND APPOINTMENT OF
3 BOARD.—

4 “(1) IN GENERAL.—The Board”; and

5 (2) by adding at the end the following new
6 paragraph:

7 “(2) APPOINTMENT CRITERIA.—

8 “(A) EXPERIENCE IN FINANCIAL SERV-
9 ICES.—In considering appointments to the
10 Board under paragraph (1), the President shall
11 give consideration to individuals who, by virtue
12 of their education, training, or experience relat-
13 ing to a broad range of financial services, finan-
14 cial services regulation, or financial policy, are
15 especially qualified to serve on the Board.

16 “(B) LIMIT ON APPOINTMENT OF CREDIT
17 UNION OFFICERS.—Not more than 1 member of
18 the Board may be appointed to the Board from
19 among individuals who, at the time of such ap-
20 pointment, are, or have recently been, involved
21 with any insured credit union as a committee
22 member, director, officer, employee, or other in-
23 stitution-affiliated party.”.

1 **TITLE III—CAPITALIZATION AND**
2 **NET WORTH OF CREDIT UNIONS**

3 **SEC. 301. PROMPT CORRECTIVE ACTION.**

4 (a) IN GENERAL.—Title II of the Federal Credit
5 Union Act (12 U.S. Code 1751 et seq.) is amended by
6 inserting after section 215 (as added by section 204 of
7 this Act) the following new section:

8 **“SEC. 216. PROMPT CORRECTIVE ACTION**

9 **“(a) RESOLVING PROBLEMS TO PROTECT FUND.—**

10 **“(1) PURPOSE.—**The purpose of this section is
11 to resolve the problems of insured credit unions at
12 the least possible long-term loss to the National
13 Credit Union Share Insurance Fund.

14 **“(2) PROMPT CORRECTIVE ACTION RE-**
15 **QUIRED.—**The Board shall carry out the purpose of
16 this section by taking prompt corrective action to re-
17 solve the problems of insured credit unions.

18 **“(b) REGULATIONS.—**The Board shall implement
19 subsection (a) of this section by prescribing regulations,
20 after public notice and opportunity for comment, which—

21 **“(1) establish criteria and procedures for**
22 **classifying credit unions as ‘well capitalized’, ‘ade-**
23 **quately capitalized’, ‘undercapitalized’, ‘significantly**
24 **undercapitalized’, or ‘critically undercapitalized’;**

1 “(2) specify a series of graduated regulatory en-
2 forcement actions that may be imposed upon credit
3 unions which fail to meet the requirements for clas-
4 sification as a well capitalized credit union, includ-
5 ing—

6 “(A) the submission of net worth restora-
7 tion plans;

8 “(B) earnings retention requirements;

9 “(C) prior written approval by the Board
10 for certain activities such as branching and
11 entry into new lines of business; and

12 “(D) the appointment of a conservator or
13 liquidating agent in appropriate circumstances;

14 “(3) establish reasonable net worth require-
15 ments, including risk-based net worth requirements
16 in the case of complex credit unions, for various cat-
17 egories of credit unions and prescribe the manner in
18 which net worth is calculated (for purposes of such
19 requirements) with regard to various types of invest-
20 ments, including investments in corporate credit
21 unions, taking into account the unique nature and
22 role of credit unions;

23 “(4) establish criteria for reclassifying the cap-
24 ital classifications of credit unions that engage in
25 unsafe or unsound practices; and

1 “(5) are generally comparable with the prompt
2 corrective action provisions set forth in section 38 of
3 the Federal Deposit Insurance Act, taking into ac-
4 count the distinct capital structure, cooperative na-
5 ture, and other characteristics of credit unions.”.

6 (b) EFFECTIVE DATE OF REGULATIONS.—

7 (1) PROPOSED REGULATIONS.—The National
8 Credit Union Administration Board shall publish
9 proposed regulations which meet the requirements of
10 the amendment made by subsection (a) in the Fed-
11 eral Register before the end of the 270-day period
12 beginning on the date of the enactment of this Act.

13 (2) FINAL REGULATIONS.—The regulations re-
14 quired by the amendment made by subsection (a)
15 shall take effect in final form by the end of the 18-
16 month period beginning on the date of the enact-
17 ment of this Act.

18 (c) REPORT TO CONGRESS.—At the time the pro-
19 posed prompt corrective action regulations are published
20 by the National Credit Union Administration Board in the
21 Federal Register pursuant to subsection (b)(1), the Board
22 shall submit a report to the Congress on the differences
23 and similarities between such prompt corrective action
24 regulations and the regulations prescribed by the Federal

1 bank agencies under section 38 of the Federal Deposit In-
2 surance Act.

3 **SEC. 302. NATIONAL CREDIT UNION SHARE INSURANCE**
4 **FUND EQUITY RATIO, AVAILABLE ASSETS**
5 **RATIO, AND STANDBY PREMIUM CHARGE.**

6 (a) IN GENERAL.—Section 202 of the Federal Credit
7 Union Act (12 U.S.C. 1782) is amended—

8 (1) by amending subsection (b) to read as fol-
9 lows:

10 “(b) CERTIFIED STATEMENT.—

11 “(1) STATEMENT REQUIRED.—

12 “(A) IN GENERAL.—For each calendar
13 year in the case of an insured credit union with
14 total assets of not more than \$50,000,000, and
15 for each semi-annual period in the case of an
16 insured credit union with total assets of
17 \$50,000,000 or more, an insured credit union
18 shall file with the Board, at such time as the
19 Board prescribes, a certified statement showing
20 the total amount of insured shares in the credit
21 union at the close of the relevant period and
22 both the amount of its deposit or adjustment of
23 deposit and the amount of the insurance charge
24 due to the fund for that period, both as com-
25 puted under subsection (c).

1 “(B) EXCEPTION FOR NEWLY INSURED
2 CREDIT UNION.—Subparagraph (A) shall not
3 apply with respect to a credit union that be-
4 came insured during the reporting period.

5 “(2) FORM.—The certified statements required
6 to be filed with the Board pursuant to this sub-
7 section shall be in such form and shall set forth such
8 supporting information as the Board shall require.

9 “(3) CERTIFICATION.—The president of the
10 credit union or any officer designated by the board
11 of directors shall certify, with respect to each such
12 statement, that to the best of his or her knowledge
13 and belief the statement is true, correct, complete,
14 and in accordance with this title and the regulations
15 issued under this title.”;

16 (2) by amending clause (iii) of subsection
17 (c)(1)(A) to read as follows:

18 “(iii) PERIODIC ADJUSTMENT.—The
19 amount of each insured credit union’s de-
20 posit shall be adjusted as follows, in ac-
21 cordance with procedures determined by
22 the Board, to reflect changes in the credit
23 union’s insured shares:

1 “(I) annually, in the case of an
2 insured credit union with total assets
3 of not more than \$50,000,000; and

4 “(II) semi-annually, in the case
5 of an insured credit union with total
6 assets of \$50,000,000 or more.”;

7 (3) by amending paragraphs (2) and (3) of sub-
8 section (c) to read as follows:

9 “(2) INSURANCE PREMIUM CHARGES.—

10 “(A) IN GENERAL.—Each insured credit
11 union shall, at such times as the Board pre-
12 scribes (but not more than twice in any cal-
13 endar year), pay to the fund a premium charge
14 for insurance in an amount stated as a percent-
15 age of insured shares (which shall be the same
16 for all insured credit unions).

17 “(B) RELATION OF PREMIUM CHARGE TO
18 EQUITY RATIO OF FUND.—The Board may as-
19 sess a premium charge only if—

20 “(i) the fund’s equity ratio is less
21 than 1.3 percent; and

22 “(ii) the premium charge does not ex-
23 ceed the amount necessary to restore the
24 equity ratio to 1.3 percent.

1 “(C) PREMIUM CHARGE REQUIRED IF EQ-
2 UNITY RATIO FALLS BELOW 1.2 PERCENT.—If
3 the fund’s equity ratio is less than 1.2 percent,
4 the Board shall, subject to subparagraph (B),
5 assess a premium charge in such an amount as
6 the Board determines to be necessary to restore
7 the equity ratio to, and maintain that ratio at,
8 1.2 percent.

9 “(3) DISTRIBUTIONS FROM FUND REQUIRED.—

10 “(A) IN GENERAL.—The Board shall effect
11 a pro rata distribution to insured credit unions
12 after each calendar year if, as of the end of that
13 calendar year—

14 “(i) any loans to the fund from the
15 Federal Government, and any interest on
16 those loans, have been repaid;

17 “(ii) the fund’s equity ratio exceeds
18 the normal operating level; and

19 “(iii) the fund’s available assets ratio
20 exceeds 1.0 percent.

21 “(B) AMOUNT OF DISTRIBUTION.—The
22 Board shall distribute under subparagraph (A)
23 the maximum possible amount that—

24 “(i) does not reduce the fund’s equity
25 ratio below the normal operating level; and

1 “(ii) does not reduce the fund’s avail-
2 able assets ratio below 1.0 percent.

3 “(C) CALCULATION BASED ON CERTIFIED
4 STATEMENTS.—In calculating the fund’s equity
5 ratio and available assets ratio for purposes of
6 this paragraph, the Board shall determine the
7 aggregate amount of the insured shares in all
8 insured credit unions from insured credit
9 unions certified statements under subsection (b)
10 for the final reporting period of the calendar
11 year referred to in subparagraph (A).”;

12 (4) by adding at the end of subsection (c) the
13 following new paragraph:

14 “(4) TIMELINESS AND ACCURACY OF DATA.—In
15 calculating the available assets ratio and equity ratio
16 of the fund, the Board shall use the most current
17 and accurate data reasonably available.”; and

18 (5) by amending subsection (h) to read as fol-
19 lows:

20 “(h) DEFINITIONS.—For purposes of this section, the
21 following definitions shall apply:

22 “(1) AVAILABLE ASSETS RATIO.—The term
23 ‘available assets ratio’, when applied to the fund,
24 means the ratio of—

1 “(A) the amount determined by subtract-
2 ing—

3 “(i) direct liabilities of the fund and
4 contingent liabilities for which no provision
5 for losses has been made, from

6 “(ii) the sum of cash and the market
7 value of unencumbered investments au-
8 thorized under section 203(c), to

9 “(B) the aggregate amount of the insured
10 shares in all insured credit unions.

11 “(2) EQUITY RATIO.—The term ‘equity ratio’,
12 when applied to the fund, means the ratio of—

13 “(A) the amount of fund capitalization, in-
14 cluding insured credit unions 1 percent capital-
15 ization deposits and the fund’s retained earn-
16 ings balance (net of direct liabilities of the fund
17 and contingent liabilities for which no provision
18 for losses has been made), to

19 “(B) the aggregate amount of the insured
20 shares in all insured credit unions.

21 “(3) INSURED SHARES.—The term ‘insured
22 shares’, when applied to this section, includes share,
23 share draft, share certificate, and other similar ac-
24 counts as determined by the Board, but does not in-

1 clude amounts exceeding the insured account limit
2 set forth in section 207(c)(1).

3 “(4) NORMAL OPERATING LEVEL.—The term ‘normal
4 operating level’, when applied to the fund, means an equity
5 ratio specified by the Board, which shall be not less than
6 1.2 percent and not more than 1.5 percent.”.

7 (b) EFFECTIVE DATE.—This section shall become ef-
8 fective on January 1 of the first calendar year beginning
9 more than 180 days after the date of enactment of this
10 Act.

11 **SEC. 303. ACCESS TO LIQUIDITY.**

12 Section 204 of the Federal Credit Union Act (12
13 U.S.C. 1784) is amended by adding at the end the follow-
14 ing new subsections:

15 “(f) ACCESS TO LIQUIDITY.—The Board shall—

16 “(1) periodically assess the potential liquidity
17 needs of each insured credit union, and the options
18 that the credit union has available for meeting those
19 needs; and

20 “(2) periodically assess the potential liquidity
21 needs of insured credit unions as a group, and the
22 options that insured credit unions have available for
23 meeting those needs.

24 “(g) SHARING INFORMATION WITH FEDERAL RE-
25 SERVE BANKS.—The Board shall, for the purpose of fa-

1 cilitating insured credit unions’ access to liquidity, make
2 available to the Federal reserve banks (subject to appro-
3 priate assurances of confidentiality) information relevant
4 to making advances to such credit unions, including the
5 Board’s reports of examination.”.

6 **TITLE IV—MISCELLANEOUS**
7 **PROVISIONS**

8 **SEC. 401. ASSURING INDEPENDENT DECISION MAKING IN**
9 **CONNECTION WITH CERTAIN CONVERSIONS.**

10 Section 18 of the Federal Deposit Insurance Act (12
11 U.S.C. 1828) is amended by adding at the end the follow-
12 ing new subsection:

13 “(t) CONVERSIONS INVOLVING FORMER CREDIT
14 UNIONS.—

15 “(1) IN GENERAL.—Notwithstanding any other
16 provision of law—

17 “(A) an insured credit union may not con-
18 vert into an insured depository institution; and

19 “(B) an insured depository institution
20 which resulted from a prior conversion of an in-
21 sured credit union into such insured depository
22 institution may not convert from the mutual
23 form to the stock form and may not convert
24 from 1 form of depository institution into an-
25 other,

1 unless the appropriate Federal banking agency for
2 the insured depository institution which results from
3 any such conversion reviews the conversion and de-
4 termines that the requirements of paragraphs (2)
5 and (3) have been met.

6 “(2) PROHIBITION ON ECONOMIC BENEFIT
7 FROM CONVERSION FOR CREDIT UNION OFFICERS,
8 DIRECTORS, AND COMMITTEE MEMBERS.—An indi-
9 vidual who is or, at any time during the 5-year pe-
10 riod preceding any conversion described in para-
11 graph (1), was a director, committee member, or
12 senior management official of an insured credit
13 union described in subparagraph (A) or (B) of such
14 paragraph (in connection with such conversion) may
15 not receive any economic benefit as a result of the
16 conversion with regard to the shares or interests of
17 such director, member, or officer in the former in-
18 sured credit union or in any resulting insured depos-
19 itory institution.

20 “(3) ACKNOWLEDGEMENT AND ATTESTATION
21 BY OFFICERS, DIRECTORS, AND COMMITTEE MEM-
22 BERS.—Any insured credit union or insured deposi-
23 tory institution which is seeking to engage in a con-
24 version which is subject to this subsection shall sub-
25 mit—

1 “(A) a written acknowledgement, in such
2 form and manner as the appropriate Federal
3 banking agency may prescribe, by every individ-
4 ual who is subject to the prohibition contained
5 in paragraph (2) that such individual is aware
6 of such prohibition; and

7 “(B) an attestation that the conversion
8 under review will not result in a violation of
9 such prohibition.

10 “(4) DEFINITIONS.—For purposes of this sub-
11 section, the following definitions shall apply:

12 “(A) INSURED CREDIT UNION.—The term
13 ‘insured credit union’ has the meaning given to
14 such term in section 101(7) of the Federal
15 Credit Union Act.

16 “(B) SENIOR MANAGEMENT OFFICIAL.—
17 The term ‘senior management official’ means a
18 chief executive officer, an assistant chief execu-
19 tive officer, a chief financial officer, and any
20 other senior executive officer (as defined by the
21 appropriate Federal banking agency pursuant
22 to section 32(f)).’.”.

1 **SEC. 402. PAYMENT OF INTEREST ON RESERVES AT FED-**
2 **ERAL RESERVE BANKS.**

3 (a) IN GENERAL.—Section 19(b) of the Federal Re-
4 serve Act (12 U.S.C. 461(b)) is amended by adding at
5 the end the following new paragraph:

6 “(12) EARNINGS ON RESERVES.—

7 “(A) IN GENERAL.—Balances maintained
8 at a Federal reserve bank by or on behalf of a
9 depository institution to meet the reserve re-
10 quirements of this subsection applicable with re-
11 spect to such depository institution shall receive
12 earnings to be paid by the Federal reserve bank
13 at least once each calendar quarter at a rate
14 not to exceed the rate earned on the securities
15 portfolio of the Federal Reserve System during
16 the preceding quarter.

17 “(B) REGULATIONS RELATING TO PAY-
18 MENTS AND DISTRIBUTION.—The Board may
19 prescribe regulations concerning—

20 “(i) the payment of earnings in ac-
21 cordance with this paragraph;

22 “(ii) the distribution of such earnings
23 to the depository institutions which main-
24 tain balances at such banks or on whose
25 behalf such balances are maintained; and

1 “(iii) the responsibilities of depository
2 institutions, Federal home loan banks, and
3 the National Credit Union Administration
4 Central Liquidity Facility with respect to
5 the crediting and distribution of earnings
6 attributable to balances maintained, in ac-
7 cordance with subsection (c)(1)(B), in a
8 Federal reserve bank by any such entity on
9 behalf of depository institutions which are
10 not member banks.”.

11 (b) TECHNICAL AND CONFORMING AMENDMENT.—

12 (1) Section 19(b)(4) of the Federal Reserve Act
13 (12 U.S.C. 461(b)(4)) is amended by striking sub-
14 paragraph (C).

15 (2) Section 19(c)(1)(A) of the Federal Reserve
16 Act (12 U.S.C. 461(c)(1)(A)) is amended by striking
17 “subsection (b)(4)(C)” and inserting “subsection
18 (b)”.